Part-I

1949 **File No.** O. Requisitioning

Legal Deptt.

A **BRANCH**

Subject:— Opinions under the

Bombay Land Requisitioning

Act 1948

P 26
E

File No. O. Requisitioning/49 Part-I

L.D.-A

C O N T E N T S.

Legal Department File No. O. Requisitioning /1949-I

Sr.No.	R.I./ O.No.	Subject.	Pages.
		Opinions under the Bombay Land Requisitioning Act, 1948.	
1	389 / 3-1-49	Question regarding requisitioning of flat restored to original tenant.	1-2
2	735 / 20-1-49	Sec. 5(1), proviso - Question regarding requisition of a lodging house.	3-4
3	1227 / 2-2-49	Question whether housing a private individual as a part of a general scheme will amount to a public purpose.	5-6
4	1133 / 31-1-49	Question Whether if the purchaser occupies the same flat which was previously occupied by the Vendor it can be contended that the flat is "premises" within the meaning of S.c.2(3) or S.c.4(3).	7-8
5	359 / 11-1-49.	Sec. 6(1)- Question whether the assurance, if any, given by the Collector, B.S.D. to the effect that the building would be derequisitioned would be a bar to successful prosecution of the landlord.	9-10
6	654 / 19-1-49	Joint tenancy or sub-tenancy - Whether premises can be requisitioned.	11-12
7	1193 / 1-2-49	Sec. 4(1) and (2) Question regarding prosecution of Mr. Vaidya - Question whether premises occupied by the owner immediately after construction can be considered premises let or intended to be let within the meaning of Sec. 2(3) and Whether notice of such premises would be necessary under sec. 4(2).	13-14
	1735 / 14-2-49	Sec. 15 - Delegation of powers to Dist. Dy. Collector.	15-1

Sr. No.	M.I./O.No.	Subject.	Pages.
9	1051 28-1-49	Question regarding payment of rent by cheque.	17-18
10	1571 9-2-49	Question regarding requisitioning of Canadia Residence and Dinshaw's property	19-20
11	1697 12-2-49	Secs. 5(1), 11(1) and 15(1)(b).- Question regarding requisitioning of Godowns.	21-22
12	2294 26-2-49	Sec. 6(1) Question regarding intimation by a landlord of a prospective Vacancy.	23-24
13	1540 14-2-49	Rent farming contract - Requisitioning of premises subject to	25-26
14	1851 16-2-49	Sec. 6(1) and (2) Question whether intimation will have to be given of the vacancy due to transfer or assignment of the leased premises as incidental to the sale of business.	27-28
15	2162 23-2-49	Question whether non-compliance of the proviso to sec. 6(4)(b) would render the order illegal.	29-30
16	2116 22-2-49	Question regarding cancellation of allotment order.	31-32
17	3280 25-3-49.	Sec. 6(4) proviso - Question whether the residence of the immediate dependants of the landlord in the building would be residence of the landlord in the building especially if they are members of the a joint family.	33-34
18	3395 29-3-49	Sec. 5 - Question whether section would be feasible against Mrs. Kulsum Khanu Alli Mahomed in respect of the building "Khurshid Cottage"	35-4
19	3911 11-4-49	Question whether the landlord has to give intimation afresh to Govt. of a vacancy which he has already intimated.	41-44
20	4830 5-5-49	Sec. 7 - Plots requisitioned under the Defence of India Rules to be requisitioned under -	45-48
21	4455 22-4-49	Question regarding allotment of the premises to the Sarvajanik Sahakari Grahik Samaj, Ltd.	49-50

BKS. 15/6/ 5o.

16/6

K.S.R.
16/6

Office of the R.L.A.

Requisitioning of flat restored to original tenant.

Having restored the flat to Mrs. Barkat Ram re-requisition of the flat by Government would not be legally feasible nor expedient. If she files any suit for compensation Government can claim protection under section 17(2) of the Bombay Land Requisition Act, 1948.

Id/-P.M.L. 11/1/49
Remembrancer of Legal Affairs.

U.R. to H. & L.G.D., No. 389 ,dated the 13th January 1949.

BKS. 14/6/ 4e.

Office of the R.L.A.

Bombay Land Requisition Act,1948 Proviso to section 5(1). Requisition of a lodging House.

In his Order dated 4.12.1948 fixing fair rates in respect of the Neotan Boarding House, (since known as "Shree Rameshwar Hindu Lodge") under section 33 of the Bombay Rates, Hotel, and Lodging House Rates Control Act, 1947, the Controller of Hotels and Lodging Houses, clearly states that the hotel is providing lodging only to residents with early morning and evening tea", and taking this fact into consideration he fixed fair rates, both monthly and daily, for lodging in respect of each room. It is, therefore, clear that the occupants are merely lodgers and they cannot be treated as 'tenants' under the proviso to section 5(1) of the Bombay Land Requisition Act however long they have been staying there. The building does not appear to have been occupied by the landlord. Consequently, the proviso to section 5(1) would not come in the way and the four floors occupied by the "Shree Rameshwar Hindu Lodge" can be requisitioned under section 5(1). (see Advocate' General's opinion No.~~4~~ 45, dated 7.10.1948.)

However, in view of the recent trend of judicial opinion requisitioning in this case is not likely to be viewed with favour, inasmuch as it will result in throwing out a number of lodgers and stopping the hotel-keeper's business. Unless there be overmastering consideration of expedience or necessity in support of the requisitioning, I would not advise that course.

Id/-P.M.L.
20/1

Remembrancer of Legal Affairs.

U.R. to H. and L.C.D., No. 735 ,dated the 20th January 194

BKS. 14/6/ 48.

It would not be profitable to consider the question whether housing a private individual as a part of a general scheme will amount to a public purpose; "Public purpose" of this kind will not fall within the scope of the Cabinet's decision, if I understand it correctly; for, otherwise the decision cannot be said to have made any change in the policy followed so far.

IG/-P.N.L.

BKS. 14/6/ 40.

Office of the R.L.A.

If the purchaser now occupies the same flat which was previously occupied by the Vendor, it would be difficult to contend that the flat is "premises" within the meaning of clause (3) of section 2 of the Bombay Land Requisition Ordinance, or section 4 (3) of the Act. Consequently, it would be inadvisable to take any steps in the matter and as observed by the Dy.Secretary H. & L.G.D., the case may close.

Id/-P.M.L.
29/1/
Remembrancer of Legal Affairs.

U.R. to H. & L.G.D., No. 1133 ,dated the 31st January 1949.

BXB. 14/6/ 40.

Office of the E.L.A.

*Bombay land Requisition Act, 1948

Section 6(1)

Whether a prosecution would be successful.

This does not appear to be a fit case for prosecution. The eight old tenants who were paying rent during the period of reconstruction of the building were entitled to reinstatement immediately the building was ready for occupation and their premises could not, strictly speaking, be vacant within the meaning of section 6(1) of the Bombay Land Requisition Act, 1948 and no notice was necessary. In respect of the two rooms which were allotted to new tenants a vacancy was deemed to have arisen and the landlord was bound to give notice of vacancy. But within seven days of the report of the Inspector that the said building was ready for occupation the Collector requisitioned the building. The subsequent correspondence between the landlord and the Collector discloses that the latter was not prepared to take a serious notice of the breach and settled the matter with the former by agreeing to accept one room for allotment.

Id/-P.M.L.
8/1
Remembrancer of Legal Affairs.

U.O. to H. & L.C.D. No. 339 dated the 11th January 1949.

BKC. 14/6/ 4c.

Bombay Land Requisition Act.

Joint tenancy or sub-tenancy.

Whether premises can be requisitioned.

In the case of a joint tenancy the lease is granted to two or more persons to hold the demised premises as joint tenants upon the death of one of whom the other or others becomes entitled at law by survivership to the whole of the interest remaining in the lease (see Woodfall's law of Landlord and Tenant, p.126). In the present case it is not alleged that the lease of premises was granted to Mr. R.G. Nair and others jointly and ~~xx~~ obviously there can be no joint tenancy as the other occupants later on joined Mr. R.G. Nair.

The next question for consideration is whether there is any sub-tenancy. In the case of a sub-~~xx~~ lease the sub-lessee becomes the tenant of the lessee and does not stand in the lessee's place (see Mulla's Transfer of Property Act, 2 p. 613). By a sub-lease a separate interest is created in favour of a sub-lessee. In the present case the other occupants were admittedly living with the lessee R.G. Nair ~~xxx~~ and though they may be sharing the rent with Mr R.G. Nair they cannot be deemed to be sub-tenants as no separate interest in the leased premises was created in their favour. Their position would be of a licensee. Although strictly speaking these occupants ~~xxx~~ may not be entitled to claim to occupy the premises i either as joint tenants or as sub-tenants, however, in view of the fact that they have been long in occupation of the premises and seem to have been recognised by the landlord as tenants after Mr. R.G. Nair left the premises, this is not a fit case for requisitioning the premises.

Id/-P.M.L. 18/1
Remembrancer of Legal Affairs.

U.R. to H. and L.G.D., No. 654 ,dated the 19th January 1949.

BKS. 14/6/ 4c.

Office of the R.L.A.

Bombay Land Requisition Ordinance, 1947. section 4 (1) & (2).

The premises occupied by the owner immediately after construction cannot be considered premises let or intended to be let within the meaning of section 2(3) of the Bombay Land Requisition Ordinance and consequently no notice of such premises would be necessary under section 4(2). The prosecution of Mr. Vaidya in the present case for failure to give notice of the vacant premises before occupation would not therefore be legally feasible.

Id/-P.M.L.
31/1
Remembrancer of Legal Affairs.

R.R. to H. & L.G.D., No. 1193 ,dated the 1st February 1949.

BKS. 14/6/ 40.

Bombay Land Requisition Act, 1948

Section 15. Delegation of powers to District Deputy Collector.

The powers of Government cannot be delegated under section 15 of the Bombay Land Requisition Act, 1948, to a District Deputy Collector who is below the rank of a Collector, nor can the Collector redelegate his powers to any officer since the Act does not provide for such redelegation. The notification at page 71 ante is ultra vires and illegal.

Id/-P.M.L.
12/2
Remembrancer of Legal Affairs.

U.R. to H.& L.C.D. No. 1735 , dated the 14th February 1949.

Office of the R.L.A.

Payment of rent by cheque.

The money tendered must be current coin on the realm (cf. 16 Bom.599). "A tender by cheque will be a valid tender if the person to whom it is tendered is willing to receive payment by cheque." (Cf. 52 Mad. 322 at p.328). Consequently it would be a valid tender of rent by an endorsed cheque as proposed by Dy.Secy. H.& L.G.D., provided the landlord has no objection; otherwise payment of rent will have to be made in cash by Government after recovering the same from the allottees.

Id/-P.M.L.
27/1
Remembrancer of Legal Affairs.

U.R. to H. & L.G.D., No. 1051 ,dated the 28th January 1949.

BKS. 14/6/ &c.

Office of the R.L.A.

Requisitioning of Gamadia Residence and Dinshaw's property.

There appears no objection to requisitioning the vacant portion of Gamadia Residence under the Bombay Land Requisition Act, 1948, for such requisition, not being a lease or sale of property by the trustees, would involve no breach of trust. As regards the Dinshaw property, a letter should be addressed to Messrs. Little & Co., the Solicitors, stating that it is presumed that their objection to the requisitioning on the ground that the contract of sale may be affected, does not now survive; and on hearing from them the property may be requisitioned as advised in R.L.A.'s opinion No. 9934 dated 23.10.1948.

Id/-P.M.L.
9/2
Remembrancer of Legal Affairs.

U.R. to H. & L.G.D., No. 1571 ,dated the 9th February 1949.

BK3. 14/6/ 4c.

No. 1697

Office of the
Remembrancer of Legal Affairs,

Bombay Castle, 12th February 1949.

To

The Collector of Bijapur,
Bijapur.

Subject:- Requisitioning of godowns No. 6 of West Patent Press and godowns Nos. 3 and 4 of Darbar Ginning Factory.

Sir,

With reference to your endorsement No. R.Q.N.-5-II, dated the 22nd ~~X~~ January 1949, I have the honour to forward herewith my opinion in the above matter.

Papers received with the above mentioned endorsement are returned herewith.

Yours faithfully,

Id/-R.T.K. 11/2

Id/-P.M.L' 11/2
Remembrancer of Legal Affairs.

BKS. 14/6/ 4o.

Office of the R.L.A.

Bombay Land Requisition Act, 1948.

Requisitioning of godowns.

sections 5(1) 11(1) and 13(1) (b).

Proviso to section 5(1) of the Bombay Land Requisition Act, 1948, which applies to residential buildings will have no application to godowns which are used as in the present case for storing goods.

Possession of godowns can be taken under section 11(1) with the help of the police and after breaking open the doors of ~~km~~ the godowns if necessary, provided a notice is duly served on the firm or corporation in occupation of the godowns as provided in section 13(1) (b) ; and in the event of any obstruction action under section 186 I.P.C. can be taken.

Id/-P.M.L.
11/2
Remembrancer of Legal Affairs.

BKS. 14/6/ 4c.

Office of the R.L.A.

Section 6(1) of the Bombay Land Requisition Act, 1948, provides that, whenever any premises are vacant or become vacant by reason of the tenant or the sub-tenant, as the case may be, ceasing to occupy the premises, the landlord of such premises shall give intimation thereof in the prescribed form. It is, therefore, apparent that intimation is to be given by the landlord not of a prospective xx vacancy but only when the tenant ceases to occupy and the premises become vacant. Such vacancy is a condition pre-requisite of exercising the power of requisition under sub-section (4). To hold otherwise would land us in legal difficulties. For example, the landlord may give an intimation of a vacancy which is expected to occur after a month, in which case we will be compelled to make an order before the vacancy in fact materialises and such order would be challenged as without jurisdiction . The prescribed form also rightly speaks of the date on which th vacancy occurred. In cases where intimation of prospective xx vacancies are received, the landlord's attention should be drawn to the provisions of the xxxxxxxxxxxxxx section and he should be asked to report after the tenant has ceased to occupy and a vacancy has in fact occurred.

Id/-P.M.L.
24/2
Remembrancer of Legal Affairs.

U.R. to H.& L.C.D., No. 2294 dated the 26th February 1949.

BKS. 14/6/ 4c.

Office of the R.L.A.

Rent farming contract.

Requisitioning of premises subject to — .

One of the conditions subject to which the farming of rent of the building was taken by Mr. Parumal on 1st June 1948 is :

> "We shall pay you an amount of Rs.1001/- per month irrespective of the amount received from the tenants and occupants either less or more. You will notify the present tenants or occupants to pay the due rents directly to us. You will not in any way interfere in the matter of collection of rents."

This condition amounts to the transfer of the part of lessor's interest for the period of the contract within the meaning of section 109 of the Transfer of Property Act and as such Mr.Parumal would be entitled to all the rights and interests of the landlord for the management of the building during the period of the contract. This means that he practically stands in the shoes of the landlord so far as the collection of rent and the use of the building are concerned. If the premises occupied by Mr.Parumal are the same which were occupied by the previous farming contractor, it would in the absence of any proof to the contrary be difficult to say that these premises were let at any stage. Since the legal position is rather doubtful as to the vacancy of the premises, it appears inadvisable to requisition the premises occupied by Mr. Parumal.

Id/-P.M.L.
1/2
Remembrancer of Legal Affairs.

U.R. to H.& L.G.D.No. 1540 dt. 9-2-1949.

BKS. 14/6/ 4c.

Office of the R.L.A.

By virtue of a notification issued by Government under the proviso to section 15 of the Rent Control Act the transfer, or assignment of the leased premises as incidental to the sale of business is permissible, and consequently although such transfer or assignment would involve a vacancy within the meaning of section 6(1) of the Requisition Act and an intimation thereof will have to be given under sub-section (2), it may not be advisable to requisition such premises (see R.L.A.'s opinion No. 1161, dated 31-1-1949.)

Id/-P.M.L.
15/2
Remembrancer of Legal Affairs.

U R. to H, & L.G.D. No. 1851 dated 16t February 1949.

BKS. 14/6/ 4c.

Office of the R.L.A.

Whether non-compliance of the previso to sec. 6(4) (b) of the Bombay Land Requisition Act, 1948, would render the order illegal.

The second previso to sub-section (4) of section 6 of the Bombay Land Requisition Act, 1948, is mandatory and its non-compliance would make the order under clause (b) illegal.

Id/-P.M.L. 22/2
Remembrancer of Legal Affairs.

U.R. to H.& L.G.D. No. 2182 ,dated the 23rd Feb. 1949.

BKS. 14/6/ 4c.

Office of the R.L.A.

Section 5(3) of the Bombay Land Requisition Act, 1948, provides that a landlord shall not, without the permission of the Provincial Government, let, occupy or permit to be occupied such premises before giving the intimation (of the vacancy) and for a period of one month from the date on which the intimation is given. Under sub-section (4), whether or not an intimation is given, the Provincial Govt. may by order in writing (b) require the landlord to let the premises to specified persons or class of persons or in specified circumstances. Section 8 of the Act provides for compensation in cases when any land is requisitioned or is continued to be subject to requisition under the Act.

2. It follows from these provisions that in cases where the order is made under clause (b) of sub-sectio (4) of section 6, no question of Government paying any compensation to the landlord arises. A direct nexus is established between the landlord and the tenant and naturally the tenant will be liable to pay rent to the landlord under the ordinary law. In cases where the person in whose favour the order was made refuses to occupy and thus does not become a tenant, the landlord cannot claim compensation from him. Nor can he claim compensation from Government on the ground that his premises remained x vacant; for it was open to him after the period of one month expired and upon the person declining to enter xim into possession, to let the premises to any one he chose. It is not the intention of the Act and there is no provision made that the landlord should be compensated for having to keep the premises vacant for a period of one month during which he is precluded from letting it.

3. It is not incumbent upon the landlord to give

Office of the R.L.A.

Cancellation of allotment order.

Land Requisition Act, 1948, section 6.

An allotment of requisitioned premises creates no interest in favour of the allottee and can be cancelled at any time even after the allottee occupies the premises as he holds them as a licensee. Consequently, even if the allotment has not been cancelled in the present case there would be no objection to the Collector cancelling it now.

Id/-P.M.L.
21/2
Remembrancer of Legal Affairs.

U.R. to H. & L.G.D. No. 2116 ,dated the 22nd February 1949.

BKS. 14/6/ 4c.

Office of the R.L.A.

The object of the second proviso to section 6(4) of the xxxxmf Bombay Land Requisition Act is to give an opportunity to the landlord residing in the building to say whether he has any objection to letting the premises to a specified person, that is to say, whether the specified person is or is not a desirable tenant. The word "resides" in the proviso is not qualified by the word "personally". The residence of the immediate dependants of the landlord in the building would be residence of the landlord in the building especially if they are members of a joint family as in this case. In the circumstance it appears desirable to put a wider interpretation on the proviso.

Id/-P.M.L.
24/3
Remembrancer of Legal Affairs.

U.H. to H. & L.G.D. No. 3280 ,dated the 25th March 1949.

BKS. 14/6/ 49.

L.D.R.I. No. 4370-A
24-3-49 35

Office of the R.L.A.

The undisputed facts of this case as can be gathered from the record are as follows. The building in question 'Khurshid Cottage' situated at 15th Road, Khar, was in the occupation of Mrs.Kulsum Khanu Ali Mahomed and her husband since 1939. The Cottage has never been rented. Mrs.Kulsum lost her husband about two years ago. She has a daughter who stays in a hostel in Bombay, and her brother lives at No.3A, Back Bay View, New Queens Road, Bombay 4. The present ration cards of Mrs.Kulsum and her servants who live in the Cottage were issued on 18th November 1947, and there is unanimity of evidence that the rations are being drawn regularly every week, though not in full quantity, for the last xx two years. The cottage was requisitioned onthe 1st of April 1948; but within two days of requisitioning upon xxxxrepresentations made by Mrs.Kulsum, a de-requisitioning order was passed on the 3rd of April 1948. The papers underlying these orders are not forthcoming so that it is difficult to say x what reasons impelled the then Collector of Bombay first to requisition and then to de-requisition the building.

2. On the other hand it is stated by the informant and particularly on behalf of Mr.Bajaj, that the cottage has been kept in charge only of a servant, and the owner does not live there but lives at the premises at Back Bay, which, as stated before, stand in the name of the brother. There are some statements by neighbours to the effect that the cottage is lying xx vacant, and that the owner has come to stay in the premises for the last fortnight or so before the inquiry was undertaken sometime in xxx January.

3. Upon these facts it would be impossible to make a requisition order, whichcan be sustained in a Court of law. Since the cottage has never been rented for the last eleven years, it cannot.

be treated as "premises" to which section 6 of the Bombay Land Requisition Act would be applicable.

4. In applying section 5 we would be confronted with the bar of the proviso which enacts that no building or part thereof wherein the owner, the landlord or the tenant, as the case may be, has actually resided for a continuous period of six months immediately preceding the date of the order shall be requisitioned under this section. It is true that the words used are "actually resided for a continuous period". In this case, however, the Court will, in all likelihood, held that such residence is established. The owner is recently widowed. There are no other members of the family who could live in the cottage excepting the daughter who has been kept in a hostel in Bombay. The building is in Khar and the owner maintains that she has to go often to Bombay for attending to the work of litigation. It is not at all unusual for a person living Khar to spend the major part of the day on business in Bombay or even to spend a few days with relations in Bombay. There is no evidence that the owner has any premises xix elsewhere in Bombay. The premises at Chawpatty stand in her brother's name, and apparently her brother lives there. The strongest evidance is the continuous drawing of rations for the last two years. A servant is permanently maintained at the cottage. Besides, the premises were requisitioned and then de-requisitioned , apparently because the Collector was convinced of the fact that they were in the occupation of the owner. As against this overwhelming mass of evidence, the evidence of neighbours who claim to notice while they pass by that the cottage is vacany will not carry us xx very far.

5. Having regard to all these circumstances, it will not be possible to demonstrate that the owner did not actually reside for a continuous period of six months in this cottage, and for that reason action under section 5 would not also be feasible.

6. The Revenue Department is requested in future before sending the case to the R.L.A. to append a self-contained note of the relevant facts.

Id/-P.M.L.
Remembrancer of legal Affairs.

U.M. to R.D. No. 3395 , dated the 29th March 1949.

BKS. 14/6/ 4c.

intimation afresh to Govt. of a vacancy which he has already intimated. Govt. has power to issue a fresh order if necessary xxxxxx under clause (b) provided such order is made within the period of one month or where the xxxxvacancy still continues beyond that period.

Id/-P.M.L. 9/4
Remembrancer of Legal Affairs.

U.R. to R.D. 5911 dated the 11th April 1949.

BKS. 14/6/ 4o.

Office of the R.L.A.

Plots requisitioned under the Defence of India Rules to be requisitioned under the Bom. Land Requisition Act, 1948, section 7

There is no provision in the xx Requisitioned Land (Continuance of Powers) Act, 1947, to get the original requisitioning of the plots on behalf of the Defence Department transferred to the Bombay Government. As the life of this Act has been extended upto 31st March 1950 by a Resolution by the Constituent Assembly (Legislative) at its meeting held on the 25rd March 194 really speaking it is not necessary to derequisition the plots and re-requisition them under the Bombay Land Requisition Act, 1948. Since the Defence Department is insisting that this Government should acquire title and since the plots in question were continued to be subject to requisition under section 3 of the Act they can be further continued to be subject to requisitionunder section 7 of the Bombay Land Requisition Act by an order in writing before they cease to be subject to requisition (see R.L.A.'s No. 11096, dated 25-11-1948).

Id/-P.M.L.
2/5
Remembrancer of Legal Affairs.

U.R. to R H.D. No. 4880, dated the 3rd May 1949.

BKS. 14/6/ 40.

Copies of letter, No. 1067/D.S/49, dated 25th March 1949 from the Government of India, Ministry of Defence, New Delhi.)

"I am directed to refer to correspondence ending with this Ministry's letter, No. 998/-D8/49, dated the 12th March 1949, on the above subject and to state for your information that the necessary Resolution for the extension of the life of the above mentioned Act for a further year upto 31st March 1950, was passed by the Constituent Assembly (Legislative) at its meeting held on the 23rd March 1949. A copy of the Government of India, Ministry of Law notification, to this effect,- will be forwarded to you as soon as it is published."

IMMEDIATE.

No. 2198-A/45

Revenue Department,
Secretariat, Bombay,
26th March 1949.

Forwarded to :-

the Commissioners of Divisions,

all Collectors including the Collector of Bombay and Bombay Suburban District,

all Departments of Secretariat (except the Separate Department),

for information and guidance (in continuation of Government endorsement of even No. dated 19th March 1949).

By order of the Governor of Bombay,

Sd/- X X X

Assistant Secretary to the Government of Bombay, Revenue Department.

BKB. 14/6/ 40.

5833/19-4-49 49

Office of the S.L.A.

Subletting the premises would not be feasible even if the order were made under clause (a) of sub-section (4) of s section 6 of the Bombay Land Requisition Act, 1948, [requisitioning the premises]. In pursuance of such order the premises can only be "allotted" to the Sarvajanik Sahakari Grahak Samaj, Ltd. and Government would be primarily responsible for paying rent by way of compensation to the landlord. Premises which have been let to Government cannot be sublet in view of the express prohibition contained in section 15 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. In any case, therefore, subletting is out of question in this case.

2. Inthese circumstances, it is for consideration whether it is at all necessary to change the order now made under clause (b) of sub-section (4) of section 6. That order would make the Samaj directly in liable for rent to the landlord which method of making provision for the liability is certainly preferable.

3. If, however, it is felt that Government should still have control over the premises, there would be no legal objection to cancelling the order under clause (b) and to requisition the premises under clause (a) and allotting them to the Samaj. The subletting agreement would be inappropriate and the only way of eventually enforcing Government's control would be by cancelling the allotment.

Id/-P.N.L
22/4
Remembrancer of Legal Affairs.

U.R. to R.D. No. 4455 dated the 22nd April 1949.

sK3. 14/6/ 4c.